



FISCAL MEMORANDUM

HB 718 - SB 1228

April 19, 2021

SUMMARY OF ORIGINAL BILL: Enacts the Safe Senior Act of 2021. Makes various changes to statute regarding aggravated abuse of the elderly offenses and offenses against vulnerable adults.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (007315): Deletes and replaces all language after the enacting clause such that the only substantive change is to expand the meaning of financial exploitation, as used in the Elderly and Vulnerable Adult Protection Act, to include the act of obtaining or exercising control over an elderly or vulnerable adult's property, without receiving the elderly or vulnerable adult's effective consent, by an accomplice committed with the intent to benefit the caregiver or other third party.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Public Chapter 474 of 2019 repealed Tenn. Code Ann. § 71-6-119 effective January 1, 2020.
- The proposed legislation removes antiquated references to Tenn. Code Ann. § 71-6-119.
- Any impact to state or local government resulting from the removal of such references is estimated to be not significant.
- The proposed legislation adds a vulnerable adult to the list of circumstances for the offenses of aggravated rape and rape.
- Any impact to state incarceration resulting from this addition is estimated to be not significant.
- Pursuant to Tenn. Code Ann. § 39-15-506(a)(1), the names of persons convicted of financial exploitation, neglect or aggravated neglect of an elderly or vulnerable adult are required to be added to a registry managed by the Department of Health (DOH).
- Pursuant to Tenn. Code Ann. § 39-15-506(a)(3), the DOH is required to notify the person convicted by mail of their inclusion on the registry. The person convicted may challenge the accuracy of the report that the criminal disposition has occurred, such hearing conclusions were made, or any factual issue related to the correct identity of the

person. If the person convicted makes such a challenge within 60 days of notification of inclusion on the registry, the Commissioner of the DOH, or the Commissioner's designee, shall afford the person an opportunity for a hearing on the matter.

- The proposed legislation adds an attempt to commit any of the eligible offenses to the list of offenses that the DOH is required to place on the Tennessee Abuse Registry.
- Any impact to DOH resulting from expanding the offenders required to be placed on the Tennessee Abuse Registry will be accommodated with existing resources. Any fiscal impact to DOH is estimated to be not significant.
- The proposed legislation requires Adult Protective Services to provide a district attorney general outlined information relative to a criminal information of an alleged conduct involving an elderly or vulnerable adult victim.
- Any impact to the Department of Human Services to comply with the proposed legislation is estimated to be not significant.
- The proposed legislation specifies that a court may order sentences to run consecutively if the court finds by a preponderance of evidence that a defendant is convicted of two or more statutory offenses involving sexual exploitation of an elderly or vulnerable adult with consideration of the aggravating circumstances arising from the relationship between the defendant and victim, the nature and scope of the sexual acts, and the extent of the physical and mental damage to the victim.
- Trial judges are authorized to increase the length of a sentence within the appropriate range depending on the presence of enhancing factors; therefore, any impact to local incarceration resulting from authorizing a court to alternately order multiple sexual exploitation of an elderly or vulnerable adult offense sentences to run consecutively is estimated to be not significant.
- The proposed legislation specifies the circuit, general sessions, and chancery courts have jurisdiction over Elderly and Vulnerable Adult Protection Act proceedings.
- Any impact to the court system is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/mj